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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/473,356	12/28/1999	Erkki Tanskanen	004770.00461	9889

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WASHINGTON, DC 20005-4051

EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/473,356	<b>Applicant(s)</b> TANSKANEN, ERKKI	
	<b>Examiner</b> Hunter B. Lonsberry	<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-48 and 58-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 and 58-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 8/2/06 have been fully considered but they are not persuasive.

Applicant argues that the Declaration under 37 C.F.R. 1.131 comprises facts and evidence demonstration conception coupled with diligence from before Sept 21,1999 until the filing date of December 28,1999. As 9/21/1999 is prior to the effective date of Hallberg, Applicant requests reconsideration and withdrawal of the rejection (page 27).

The Declaration filed on 8/2/06 under 37 CFR 1.131 has been considered but is ineffective to overcome the Hallberg reference. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Halberg reference to either a constructive reduction to practice or an actual reduction to practice. Evidence is missing to prove on the part of the applicant to establish a constructive reduction to practice or an actual reduction to practice. While the declaration does provide evidence that a request to prepare a patent application was created, the content of the declaration does not meet the following requirement of rule 1.131 (b)

*Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration or their absence must be satisfactorily explained.*

While Exhibit A appears to contain the claimed features, there is no date

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visible/legible on the document to establish a constructive reduction or actual reduction to practice. The Declaration simply states that the content in Exhibit A was prepared prior to September 21, 1999. Therefore, the Examiner has maintained the rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-48, and 58-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,470,378 to Tracton in view of U.S. Patent 6,128,653 to del Val and U.S. Patent 6,658,199 to Hallberg.

Regarding claims 1, 9, 25, 33, and 58, Tracton discloses a method for receiving motion video, the method comprising the steps of:

receiving at a wireless terminal (cellular phone, column 7, lines 26-34) a first data stream from a motion video server via a wireless interface at a first bit rates (column 4, lines 14-49) the first data stream comprising a motion video (MPEG 1, 2, or 4, column 4, lines 33-49) , and the wireless terminal (cellular phone) comprising a video display (Tracton inherently includes a video display as Traction discloses utilizing a cellular phone based browser for viewing the web data and video);

a user may request a number of scalable webpages and scalable MPEG video content which is delivered to users over a network from a server, based upon the users connection speed, that is, a lower connection speed, such as a user with a 56k modem receives a lower bitrate copy of the media than a user with a landline 1.5Mbbs connection (Figures 5/6, column 4, line 33-column 5, line 46, column 7, line 15-column 8, line 5).

Tracton fails to disclose transmitting to the motion video server via the wireless interface a first display control command to alter presentation characteristics of the motion video and to alter the bit rate of the first data stream over the wireless interface, the first display control command having been entered by a user at the wireless terminal subsequent to the step of commencing display of the received motion video having initial presentation characteristics.

del Val discloses a web browser plugin which enables a web browser to transmit HTTP commands which enable a user to manipulate a video stream, for example stop, play rewind, fast forward and pause (column 9, line 12-column 10, line 11) thus enabling the user to rewatch a portion of the video they were interested in, or skip over parts they do not find interesting.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Traction to utilize the HTTP video manipulation commands of del Val thereby enabling a user to re-watch part of an MPEG segment they were interested in.

del Val does not disclose subsequent command to change the presentation characteristics and to alter the bit rate of the first data stream.

Hallberg discloses an MPEG transmission system in which trick play streams (streams with different presentation characteristics) have different bit rates than a normal play stream (column 7, lines 27-column 8, 47, I frames may be dropped resulting in a reduced GOP), further, a client device's buffer state is monitored reads the buffer state of a buffer 54 in order to prevent buffer overflow, the number of frames to be transmitted are reduced until the system is capable of transmitting the trick play GOP within the systems capabilities (column 6, line 31-column 7, line 26).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Tracton and del Val to utilize the buffer status monitoring and variable bit rate capabilities of Hallberg for the advantage of preventing buffer overflow and displaying a distorted video signal.

Regarding claims 2, 15, 18, 26, 34, 42 Tracton discloses a number of scalable webpages and scalable MPEG video content which is delivered to users over a network, including cell phone users. Tracton's data stream inherently utilizes a plurality of Intra frames as Tracton utilizes MPEG 1-4 video.

Hallberg is relied upon to teach synchronization of images with a soundtrack (column 4, line 38-column 5, line 56).

Regarding claims 3-7, 10-14, 19-23, 27-31, 35-39, and 43-47, del Val discloses a web browser plugin which enables a web browser to transmit HTTP commands which

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enable a user to manipulate a video stream, for example stop, play rewind, fast forward and pause (column 9, line 12-column 10, line 11).

Hallberg is relied upon to teach synchronization, (column 4, line 38-column 5, line 36), and the use of a second data stream at a second bitrate with different presentation characteristics (column 7, lines 27-column 8, 47).

Regarding claims 8, 16, 24, 32, 40, 48, Tracton discloses a number of scalable webpages and scalable MPEG video content which is delivered to users over a network, based upon the users connection speed, that is, a lower connection speed, such as a user with a 56k modem receives a lower bitrate copy of the media than a user with a 1.5Mbps connection, a user may utilize a java enabled web browser on a mobile phone to download lower bitrate content (Figures 5/6, column 4, line 33-column 5, line 46, column 7, line 15-column 8, line 5). Tracton inherently utilizes a digital cellular telephone network with digital base stations as a digital network is required for transmitting MPEG video and web content.

Regarding claims 17 and 41, see claim one. Additionally, Tracton inherently makes use of a video display, power supply and input device within a cell phone as all three are required to operate a cell phone and view content.

Regarding claim 59, Traction discloses a web server (column 4, lines 14-62), which stores the video.

Regarding claim 60, Traction discloses a client server configuration in which video are transmitted so cellular phone users, multiple client devices may be served at once (column 8, lines 13-15). Traction must include a multiplexer otherwise Traction would not be able to service multiple clients at once.

Regarding claim 61, Hallberg is relied upon to teach the use of a display control command, which alters the bit rate of the first data stream (column 7, lines 27-column 8, 47).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6,965,724-B1 to Boccon-Gibod: Trickplay Modes for Pre-Encoded Video. This reference teaches trickplay streams at different bitrates than the primary stream.

US 6,621,979 to Erenberg: Trick play signal generation for a digital video recorder using retrieved intra-encoded pictures and generated inter-encoded pictures. This reference teaches trickplay streams at different bitrates than the primary stream.

U.S. 6,445,738 to Zdepski: System and method for creating trick play video streams from a compressed normal play video bitstream. This reference teaches trickplay streams at different bitrates than the primary stream.



**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HBL

  
Hunter B. Lossberg  
Patent Examiner  
Art Unit 2623